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ANNUAL REPORT
OF
PUBLIC DEFENDER
LOS ANGELES COUNTY
CALIFORNIA

July 1, 1946, to June 30, 1948

WILLIAM B. NEELEY
PUBLIC DEFENDER

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FOREWORD

During the past two years, as public interest has turned from the primary objective of waging war to the problems of government in the post-war world, students of political science have directed greater attention to the office of public defender and its contribution to a better administration of justice.

In this field Los Angeles County was a pioneer. In 1914 the office of Public Defender of Los Angeles County was opened, functioning as a regular department of county government. This was the first such office established in the United States.

Because of its outstanding record for public service during the many years it has served our courts this office has, to a greater or less degree, been a model for the establishment of like offices in other parts of the country. Many inquiries respecting its organization, functions and philosophy are directed to the Public Defender by the officials of this and other states, by educators, and students of government in surveys preliminary to the creation of public defender offices in other jurisdictions.

The current general interest in this comparatively new department of government has emphasized the fact that the public at large has very little knowledge of the jurisdiction of the public defender and only slight understanding of the major part which the office plays in the administration of justice.

For a better understanding of the work of the public defender we must first appreciate some of the social, economic and political changes of the last half century which have created problems particularly in the administration of the criminal law, for the solution of which the public defender program offers a major contribution .

To assist in this better understanding this report of the public defender includes as a preface an essay setting forth in brief the substance and effect of those social, economic and political factors.

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THE PUBLIC DEFENDER - DEMOCRACY AT WORK.

For the first time since the beginning of recorded history a people revolting against tyranny and injustice by their Declaration of Independence informed the world that they proposed, if successful in the revolt, to establish a nation founded on the equality of man. In that State to be created each man should be equal before the law.

In the debates of the constitutional convention the demand for legal equality was controlling and the constitution as finally adopted offered guarantees of equality for all. The first ten amendments to the Constitution, the so-called "Bill of Rights," further secured the right of all men to enjoy equal protection and equal liberty under the law.

Of these amendments the sixth provides in part that:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . . . and to have the assistance of counsel for his defense."

Similar declarations are contained in the state constitutions of the several states guaranteeing the same right to a defendant in criminal charges prosecuted under the laws of the respective states.

Judges promptly realized that the right of counsel in itself did not make effective the equality sought to be attained in granting the right. A defendant with the means of employing counsel had the elements of his defense presented at the trial

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by one trained in the law, while the defendant without money to employ legal assistance was unjustly handicapped in offering his evidence to the court. This limitation on the poor man placed him in a position of inequality before the law when compared to the man of means. Such inequalities, once established, tend to perpetuate themselves and grow, eventually bringing about gross injustice and germinating the seeds of revolt.

In order to make possible the general exercise of the right of counsel by all defendants whether with or without means to employ a lawyer, the judges of the criminal courts called upon attorneys appearing before the particular court to volunteer their services in behalf of indigent defendants. The obligation to accept such appointments and defend without pay was deemed by the bar a part of the duty of an attorney to the court. This method of providing counsel became generally known as the assigned counsel system.

For many years the assigned counsel system functioned in our criminal courts with a high degree of success. Until comparatively recent times the population of a community was, to a large degree, a fixed population. There were few improved roads and the means of moving from one community to another were limited. A hundred mile journey was an event. With the exception of that part of our people who participated in driving our national frontier westward, our citizens had a decided tendency to take up their residence in a community and to remain there. There were no large movements of seasonal laborers, and industrial districts with their ever changing populations had not come into being.

Under such conditions of life the attorney appointed by the court was frequently assigned to represent a defendant who was personally or by reputation known to him. To the moral obligation of representing his client to the best of his ability was added the incentive of the personal association.

In the formative years of our Republic the court house was the center of community interest. The opportunity to match one's abilities against the District Attorney and to appear as a barrister before friends and neighbors was of great moment to counsel and frequently served as a means of attaining public office.

A large proportion of our people resided in rural communities. Life was simple. There were few laws. Large areas of open free land made property less dear. Violations of personal or property rights, which today would result in the filing of criminal charges, were ignored. As a result there were relatively few criminal trials and attorneys were not burdened by frequent appearances on assigned cases.

Another element which contributed to the early success of the assigned counsel system was the fact that except for a very small number of prosecuting officers functioning in metropolitan areas the district attorney was not a specialist in criminal law. He was usually engaged in the general practice of the law during his term as district attorney and his acts as a prosecuting officer merely supplemented his private clientelle. He was to all practical purposes merely retained to represent the state in prosecuting offenses against society. He did not presume to offer any special abilities in the criminal phases of the law.

Appointive counsel was, therefore, not at any disadvantage in the matter of experience as compared to the prosecuting attorney and he could accept an assignment to act as counsel with full confidence in his ability to well represent his client.

With the beginning of the last quarter of the nineteenth century there came into being a series of factors which combined to rapidly change the course of the lives of a large proportion of our people. The discovery of new methods for refining steel; the completion of the transcontinental railroad and the start of the period of vast railroad building; the sudden development of industrial centers and the demand for factory workers which in turn resulted in the concentration of many of our people in large cities; the migration of masses of European nationals to our shores; the invention of the elevator, making possible the city "skyscraper" and an even greater and more compact concentration of city pupulations; all were major factors in bringing about an almost revolutionary change in many of the functions and responsibilities of our government. Important as these factors were, their influence was insignificant compared with that effected by the creation and acceptance of the private corporation as the structural framework of commercial and industrial business organization.

It is doubtful if the industrial life of the United States under any other system of organization could have expanded and developed as it has under charters of incorporation granted by government. To realize the intimate manner in which all of our lives have been affected by this modern form of business

organization we need only consider how the affairs of our daily life would be changed and what problems would arise if in some manner or means the private corporation were abolished.

With the changed conditions brought about by these new factors in our public and private life, new problems were created. They forced the abandonment of many old methods and procedures. They impelled a new approach in the disposition of old issues. The concerns of the industrialist, the merchant, the farmer, the tradesman and the laborer were intermingled and became more complex. The attorney, called upon to assist and advise them all in their new problems, found himself becoming more and more a slave to his profession. He discovered that constant study was essential if he was to keep himself well informed and competent to conscientiously counsel and advise his clients. Attorneys found that they had less time to devote to appearing as assigned counsel in criminal cases. Judges, recognizing the sacrifice in time and money made by leaders of the profession in accepting assignments by the court, were adverse to making such appointments. Out of sheer necessity, judges were impelled to select the assigned counsel from members of the profession who had been unable, either by lack of ability, lack of industry, or other cause, to establish a practice which demanded their complete attention or to enlist the services of newly admitted members of the bar. Neither course was to be recommended as insuring justice to a defendant so represented.

The new tide of immigration and the growth of large manufacturing districts had combined to bring about a tremendous growth in urban population. In such districts the ratio of criminal trials to population was considerably larger than the

ratio existing in smaller cities and rural communities. Not only was there a greater number of trials, but there was also a greater percentage of defendants in the metropolitan courts who were without counsel and without adequate means for employing an attorney. The demand for appointive counsel exceeded the supply which the dependable members of the legal profession could provide. As a result, the so-called "jail attorney" came into being. He was always in or around the criminal courts and the jails ready to volunteer his services to anyone charged with crime who was without counsel. Many such attorneys are entirely conscientious in representing their clients but others accept appointment only in the hope of being able to coerce a small fee from someone interested in the defendant and failing to get a fee they do little or nothing to assist him in presenting his case.

Increasing specialization in the practice of law has further reduced the percentage of those in the profession who are available to be assigned as counsel in a criminal case. The attorney whose practice seldom concerns the criminal law hesitates to jeopardize his standing in the courts, or the rights of a client by accepting an appointment to represent a defendant in a branch of the law with which he is not familiar.

The office of the prosecuting attorney has been no exception to the general rule of change. No longer are his services as a district attorney merely supplemental to his general practice. He is a specialist devoting his entire time to the administration of his office and the prosecution of crime. His deputies, by reason of constant association with the procedural system of the

criminal courts, are cognizant of all the devices which lead to a swift and certain conclusion of a criminal trial. For an attorney only casually familiar with the procedures in a criminal case to enter into such a trial against a district attorney thoroughly understanding the issues to be met and aided in the presentation of his evidence by a corps of deputies and investigators, would present an unequal contest and would offer little hope of ascertaining truth and attaining justice.

If we substitute a newly admitted, inexperienced member of the bar for the attorney whose practice has been outside the field of criminal law, then the possibility of ascertaining truth and attaining justice becomes even more remote.

Society can offer no excuse for a system which provides experience for young lawyers through the assigned counsel system. A miscarriage of justice is too often the terrific price paid for such experience. It is inconceivable that we would take a young physician just admitted to practice and place him alone in an operating room to perform a difficult bit of surgery, yet we have and do from time to time place the honor, liberty, even the life of a prisoner accused of crime in the charge of inexperienced counsel.

Realizing that the contribution the legal profession was making under the assigned counsel system was becoming an increasing liability and in an effort to partially reimburse appointed counsel for their services in the administration of justice, many of the states passed legislation providing for

payment by the state or county of a small fee for such services. In the smaller cities and rural communities, districts wherein the assigned counsel system was in good repute and had continued to function satisfactorily, the payment of a small fee by government to appointed counsel tended to strengthen the system. However, in large court centers and metropolitan areas it was noted that the provision for fees to be paid by the government tended to aggravate the evils of the assigned counsel system as it functioned in those districts. The fee schedules were extremely low and failed to attract the better members of the profession to offer themselves as willing to accept appointment. The jail lawyer had an added incentive to be in court on arraignment day so that he might be immediately available to act for a defendant who was in court without counsel.

Early in the twentieth century it became apparent to the bench and the bar that the system of assigned counsel was becoming outmoded and that some other method of providing legal assistance to a defendant without means must be devised. A survey of the system indicated that although the direct cost of the assigned counsel was small, the indirect cost of such counsel was out of all proportion to the service rendered. The growing impracticability of the system in large court centers, and the unwholesome conditions which it tended to create, brought criticism on the courts and the legal profession. Commissions were created to study the problem of providing competent legal assistance for those financially unable to employ counsel. These commissions invariably recognized the failure of legal aid by assigned counsel.

Charles Evans Hughes, while Chief Justice of the United States Supreme Court, in an address before the American Bar Association, stated:

"In our great cities the time honored practice of assigning counsel is not in good repute,"

and former Chief Justice William Howard Taft wrote,

"I think that we shall have to come, and ought to come, to the creation in every criminal court of the office of the Public Defender and that he should be paid out of the treasury of the county or of the state."

The idea of a Public Defender is not new. Records of the old Roman law furnish evidence that a public defender, or an officer with duties similar to those performed by such an official, was recognized in their legal system, and the civil law as administered in France and Spain makes provision for an officer whose function is in many respects comparable to that of a public defender as the office has been created in many cities and counties in this country.

The first office of public defender in the United States was created in Los Angeles County. The office was legally established by a county charter provision adopted in 1913 and was opened in 1914. It is a regular department of county government. The public defender and his deputies are selected by competitive examination conducted by the County Civil Service Commission and are responsible only to the Board of Supervisors. They are, of course, as regularly admitted members of the bar, officers of the court and subject to the same duties and obligations to the court and to

their clients as an attorney in private practice. The public defender and his deputies are paid a fixed monthly salary.

Under the limitations of the county charter the office is authorized to appear as counsel for any defendant charged in the Superior Court with the commission of a felony. Before making the appointment the court must ascertain by inquiry of the defendant that he is without means or property with which to employ counsel. After appointment the office represents a client in the same manner as private counsel, even to the extent of taking appeals to higher courts in cases wherein the public defender believes an appeal is warranted.

At the time the Los Angeles office was created it was looked upon with suspicion and distrust by many of those concerned with the administration of justice, as well as by some members of the local bar, but its efficient and successful operation for thirty-five years has raised the office to a position where it is now recognized as an essential part of the administration of justice and is highly endorsed by the judges of the courts in which its deputies appear, by prosecuting officers and law enforcement agencies, and by the bar associations. Except in those cases wherein, because of the conflicting interests of joint defendants, the public defender can not represent all defendants, the courts never appoint private counsel.

In addition to its criminal jurisdiction the Los Angeles County Public Defender has a limited civil jurisdiction. He is authorized to file and prosecute civil suits for the collection of wage claims where the amount involved does not exceed one hundred dollars and he may appear and defend in so-called persecu-

tion cases wherein the wages or property of persons without funds to employ counsel have been illegally attached or held on execution. These actions invariably involve such small sums that an attorney in private practice cannot afford to accept the employment. In a single year the office has recovered for its clients in excess of fifty thousand dollars of wages and property illegally held by others.

Surveys taken for the purpose of ascertaining the relative cost of maintaining the office of public defender, as compared with the cost of providing legal assistance under the assigned counsel system, indicate that even in t ose jurisdictions in which assigned counsel received no fee the creation of the office effected a saving in the total cost of the administration of justice. This saving results from the fact that cases are more promptly tried and unnecessary procedural delays are avoided. The public defender is always available and the courts are relieved of the necessity of granting continuances and arranging their trial calendars to suit the convenience of an assigned counsel whose first responsibility is to his regular clientelle as contrasted with his responsibility for serving without compensation in a case to which he has been appointed by the court.

The public defender system is a forward step in providing competent legal assistance for the defendant without funds to employ counsel. The obligation on society to provide such representation as will insure a fair trial of the issue of guilt is just as absolute as is the obligation to prosecute crime. To defend the individual defendant is to protect society,

for if the rights and liberties of the individual are ignored a free society is endangered. Before the bar of justice all must receive the same full hearing, the rich, the poor, the strong, the weak, if there is to be in fact for us all, justice. This is Democracy at work.

REPORT OF THE PUBLIC DEFENDER

July 1, 1946, to June 30, 1948.

The Public Defender's Office of Los Angeles County was created as a part of the freeholder's charter which was adopted and became effective on June 2, 1913. The authority and jurisdiction of the office was defined in Section 23 of Article VI, as follows:

"Upon request by the Defendant or upon order of the Court, the Public Defender shall defend, without expense to them, all persons who are not financially able to employ counsel and who are charged, in the Superior Court, with the commission of any contempt, misdemeanor, felony or other offense. He shall also, upon request, give counsel and advice to such persons, in and about any charge against them upon which he is conducting the defense, and he shall prosecute all appeals to a higher court or courts, of any person who has been convicted upon any such charge, where, in his opinion, such appeal will, or might reasonably be expected to, result in a reversal or modification of the judgment of conviction.

"He shall also, upon request, prosecute actions for the collection of wages and of other demands of persons who are not financially able to employ counsel, in cases in which the sum involved does not exceed $100, and in which, in the judgment of the Public Defender, the claims urged are valid and enforceable in the courts.

"He shall also, upon request, defend such persons in all civil litigation in which, in his judgment, they are being persecuted or unjustly harassed."

The primary work of the office is to provide legal representation for persons accused of a criminal offense in the Superior Court of our state and who are without funds to employ an attorney. In this manner the right to the aid of counsel, guaranteed by the Constitution of the United States, by the Constitution of the State of California and by the Penal Code of the State, becomes a reality to the individual defendant.

The present staff of the office embraces the Public Defender, Chief Deputy Public Defender, and fourteen Deputy Public Defenders, all of whom must be attorneys regularly admitted to practice in all of the courts of the state. The attorneys are required to devote all of their time to the work of the office and are not permitted any outside private practice. The clerical staff consists of two secretaries, three law stenographers and one stenographer. In 1946 provision was made for the employment of an Investigator in the department and at present the Bureau of Investigation is composed of two full time investigators.

The main office of the Public Defender is located in the Hall of Records, in the Civic Center of Los Angeles. In February, 1948, a branch office was opened to serve the departments of the Superior Court in Long Beach. The Long Beach office is staffed with a Deputy Public Defender and a secretary.

The criminal departments of the Superior Court functioning in Pasadena and Santa Monica are served by deputies working out of the main office.

Although the Long Beach office has been functioning only five months it has already justified the action of the Board of Supervisors in creating it. Prior to the opening of the office the work of the Long Beach courts consumed almost all of the time of one deputy and yet he was required to spend a considerable part of his time in traveling to and from the main office to the courts in which he worked. By having a deputy resident in Long Beach he is not only able to care more adequately for the work of the department in the Long Beach courts but he is also able to devote the time formerly used in travel to the better service of the people in that community who have sought and are entitled to the service of the Public Defender's Office.

Reference has been made to the action of the Board of Supervisors authorizing a Bureau of Investigation in this department. In September of 1946 the first Investigator was appointed. The work of the Bureau is confined almost exclusively to the criminal jurisdiction of the office. The Investigator's duties are comparable to those of investigators in any private law office or in the District Attorney's Office, locating witnesses and making field investigations of cases assigned to him by trial deputies in the department.

It should be pointed out that prior to the time that provision was made for a Bureau of Investigation the work of an investigator was done by the deputy to whom the respective cases

were assigned to prepare for trial. Not only were these deputies not trained to do investigating work but in many instances even when their investigations were fruitful they were unable to take full advantage of the information which they had obtained and yet serve as trial lawyers. From every viewpoint the former system was undesirable.

The creation of the Bureau of Investigation has made it possible for the trial deputies to carry an increased case load because they are relieved of the loss of time formerly spent in field investigation. The work of the Bureau was of such signal success that in January, 1948, the employment of a second investigator was authorized.

By reason of the fact that so far as we know this is the only office of Public Defender which has a Bureau of Investigation it would seem proper to point out that this phase of the work of the office has resulted in economies far in excess of the cost of the bureau.

Through careful investigation we have been able to dispose of many cases which otherwise would have had to be tried. In almost every trial in which there has been an investigation the duration of the trial is shortened by reason of the fact that the trial deputy is fully advised as to the evidence to be presented and is able to present it expeditiously. Thus substantial savings in trial costs are accomplished.

COMPOSITE STATISTICAL RECORD OF THE CRIMINAL WORK OF THE OFFICE FOR THE FISCAL YEARS 1946-47 and 1947-48.

	Number of Cases 1947-48	Number of Cases 1946-47	Court Appearances 1947-48	Court Appearances 1946-47
Los Angeles *	2775	2507	9535	7893
Long Beach	237	242	820	723
Pasadena	112	115	375	319
Violations of probation	183	141	220	171
Civil Insanity -- Jury Trials	22	12	47	25
Rehapilitation -- Petitions	33	30	162	
Contributing to delinquency	176	159	480	384
	3538	3206	11639	9515

Unfinished Cases

Los Angeles	197	168
Long Beach	5	

* Includes Santa Monica.

Attention is directed to the fact that the last three years has seen a very material increase in the number of felony cases handled by the Public Defender's Office. In the fiscal year 1945-46 the office appeared in 2636 felonies; in 1946-47, in 2864; and in 1947-48, in 3124, an increase of almost 20 per cent in three years. In the total number of cases handled by the office there was an increase of 332 in 1947-48 over 1946-47; and in the aggregate the court appearances this last fiscal year exceeded the previous fiscal year by 2124.

SUMMARY OF CRIMINAL TRIALS.

	Los Angeles 1947-48	Long Beach 1947-48	Total 1947-48	Total 1946-47
Trials disposed of by plea of guilty	492	50	542	550
Trials disposed of by dismissal	60	2	62	153
Trials disposed of by off calendar	5	1	6	3
Trials in which private counsel substituted	277	6	283	185
Trials pending (6/30/48)	97	5	102	137
Trials completed to verdict	688	12	700	521
Total trials tried or disposed of	1619	76	1695	1549

With respect to the item "Trials completed to verdict" attention should be directed to the fact that this phase of the work of the office has increased from 385 trials in 1945-46 to 521 trials in the year 1946-47 and to 700 trials in the past fiscal year, 1947-48; an increase of more than 82 per cent in three years.

RESULTS OF TRIALS

	1947 - 1948				1946- 1947			
	Los Angeles	Pasa-dena	Long Beach	Totals	Los Angeles	Pasa-dena	Long Beach	Totals
Guilty as charged	432	6	6	444	277	3	15	295
Guilty of lesser offense	100	0	2	102	61			61
Not guilty	131	7	4	142	153	4	4	161
Jury disagreed	12			12	4		4	8
Not guilty by reason of insanity								
Sane	10			10	12			12
Insane	9			9	16			16
Court doubt of present sanity								
Sane	2			2	0			0
Insane	17		3	20	10			10
Civil insanity (quasi-criminal)								
Sane	5			5	5			5
Insane	14			14	1			1
				760				569

RESULTS OF APPEALS

	1947-1948	1946- 1947
Cases Appealed	4	2
Cases Affirmed	1	1
Cases Reversed	3	1

CIVIL JURISDICTION

		1947-48	1946-47
Applications in which advice given		7743	7572
*Applications rejected:			
(a) Refused	1034		
(b) Referredto attorney	4433	5467	6293
Applications referred to other agencies and unclassified		3554	
Accepted cases (see next table)		1859	1554
Total applications for assistance		18623	15419

*Because the subject matter was not within the office jurisdiction (example- real property) or applicant able to pay a fee.

DETAIL OF ACCEPTED CASES

	1947-48	1946-47
Consent to marriage of minors		55
Illegal attachments - garnishments and other persecution cases	1099	708
Guardianships	272	297
Premarital test waivers	296	342
Wage claims and miscellaneous	191	152
Total accepted cases	1858	1554
Court appearances in civil cases	438	422

RECOVERED FOR CLIENTS

		1947-48		1946-47
Wages released from illegal attachments - garnishments		$21,179.32		$28,175.43
Defense in civil cases		4,332.88		
Goods released		101.00		187.00
Wages collected		143.02		237.00
Miscellaneous items		3,485.12		976.15
Collected on cases pending	7/1/47	5,573.54	7/1/46	2,773.03
		$54,812.88		32,349.51

All figures regarding civil cases include the Long Beach office.

BUREAU OF INVESTIGATION

	1947-48	1946-47
Criminal cases investigated	563	307
Civil cases investigated	21	25
Total	584	332
Persons interviewed	2628	1249
Persons subpoenaed at interview	261	183
Hours of overtime work	755	489

Attention is directed to the item of "hours of overtime work." The investigators receive no compensation for overtime but without this contribution they would be unable to handle the excessive case load.

Respectfully submitted,

WILLIAM B. NEELEY,

PUBLIC DEFENDER.

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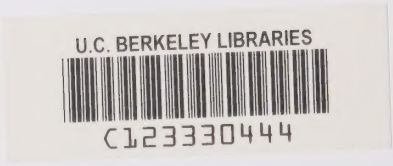

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